

***Remarks***

Reconsideration of this Application is respectfully requested.

Claims 2-5, 7, 9, 10, 12 and 14-25 are pending in the application, with claims 22-25 being the independent claim.

***Allowed Subject Matter***

The indication that claims 6, 7, 11 and 13 contain allowable subject matter is gratefully noted. Claims 6, 11 and 13 have been rewritten in independent form as new claims 23, 24 and 25, respectively. Claim 7 is depends from claim 23. As such, claims 7 and 23-25 are in condition for allowance.

***Rejections under 35 U.S.C. § 102***

Claims 1-3, 9, 10, 12, 13, 19 and 21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Garthaffner et al. (US 4,817,638) ("Garthaffner"). New claim 22 corresponds to claim 8 rewritten in independent form. Claim 1 has been canceled, and claims 2, 3, 9, 10, 12, 13, 19 and 21 each depend from claim 22. As such, this rejection is moot. Claims 1-5, 9, 16-18 and 20 are rejected under 35 U.S.C. §102(b) as being anticipated by Korber (GB 919,150). New claim 22 corresponds to claim 8 rewritten in independent form. Claim 1 has been canceled, and claims 2-5, 9, 16-18 and 20 each depend from claim 22. As such, this rejection is moot.

Claims 1-3, 9, 10 and 20 are rejected under 35 U.S.C. §102(e) as being anticipated by Dombek (U.S. 6,390,099). New claim 22 corresponds to claim 8 rewritten in independent form. Claim 1 has been canceled, and claims 2, 3, 9, 10 and 20 each depend from claim 22. As such, this rejection is moot.

***Rejections under 35 U.S.C. § 103***

Claims 8, 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Garthaffner. Claim 8 has been rewritten in independent form as new claim 22, and recites “said means for moving including a rotary pulley and a digital servo drive for said pulley.”

In the rejection of claim 8, the Action states “Garthaffner would be expected to have a drive means for the pulleys of belts 23 that forms the conveying channel.” Even if, for the sake of argument, this statement is true, the Action does not allege that a drive used with the apparatus of Garthaffner is a **digital servo** drive. Because the Action does not allege a teaching for this positive limitation, the rejection is improper and should be withdrawn.

The advantages of the digital servo drive claimed in independent claim 22 are described in part on page 22, line 25 to page 23, line 12, which states:

The aforementioned digital servo drive 52 for the driven pulley or pulleys which transmits or transmit motion to the belt or wall 34 and/or 36 is that such drive permits for highly accurate selection of the RPM, i.e., for highly accurate synchronizing of the locations of densified portions of the stream with the locus where the cigarette rod is severed by the trimming device. In other words, the digital servo drive 52 or an equivalent thereof can render it more likely that the densified portions of the fillers in the cigarettes are located at the ends, i.e., in the

regions where the particles of tobacco are likely to escape and contaminate the interior of the cigarette pack, a pocket or a handbag.

Because the prior art does not teach or suggest the claimed limitation, it is respectfully submitted that claim 22 is allowable over Garthaffner.

Claims 2-5, 7, 9, 10, 12 and 14-21 depend from claim 22 and are allowable as depending from an allowable claim.

Claim 15 further distinguishes over Garthaffner. Claim 15 recites that the stream is convertible into rod-like fillers having a predetermined length and that the material-receiving recesses are spaced apart from each other lengthwise of said at least one wall by a whole multiple of said predetermined length. Concerning this feature, the Action states “the distance between each recess is a multiple of the path of formed by Garthaffner’s conveying channel.” It is assumed that this rejection is inadvertently incomplete. First, the Action does not state how Garthaffner teaches the claimed features. The Action states that the recess is a multiple of the path. The claim recites that the recess is a multiple of the length of the filler. Also, the Action does not state how Garthaffner is deficient with respect to this claimed feature and why one would be motivated to modify Garthaffner to meet the claimed feature, as required for an obviousness rejection. (If Garthaffner taught the claimed features, the proper rejection would be under 35 U.S.C. §102.) In any event, it is respectfully submitted that Garthaffner fails to teach or suggest claim 15.

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Appl. No. 09/785,508

Claim 21 has been amended to recite that the channel has a length orientation and a narrower width orientation, and that the at least one wall is movable lengthwise along the length of the channel. Garthaffner teaches that the conveyors move in a direction which is perpendicular to the channel. Accordingly, it is respectfully submitted that claim 21 is allowable over the cited prior art.

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### ***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance with claims 2-5, 7, 9, 10, 12, 14-25.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

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